

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

HAYWARD INDUSTRIES, INC.,

Plaintiff, Counterclaim Defendant

v.

BLUEWORKS CORPORATION,
BLUEWORKS INNOVATION
CORPORATION, NINGBO C.F.
ELECTRONIC TECH CO., LTD; NINGBO
YISHANG IMPORT AND EXPORT CO.,
LTD.

Defendants, Counterclaim Plaintiffs.

Civil Action No. 3:20-CV-710 -MOC-DSC

HAYWARD'S MOTION FOR LEAVE

**TO FILE SUPPLEMENTAL EVIDENCE IN SUPPORT OF ITS MOTION FOR
SUMMARY JUDGMENT ON ITS CLAIMS OF TRADEMARK INFRINGEMENT,
FALSE ADVERTISING, PASSING-OFF, AND UNFAIR COMPETITION**

Hayward has recently discovered new evidence found on several web pages of Defendants' website www.blueworkspool.com that further proves Defendants' continued false advertising, passing off, trademark infringement, and unfair competition. The examples from Defendants' website were not present last spring and summer when Hayward briefed its motion for summary judgment, (Doc. No. 119), and opposed Defendants' motion for summary judgment regarding false advertising, (Doc. No. 180). Because this new evidence is relevant to the pending summary judgment motions but was not available when the motions were briefed, Hayward respectfully seeks leave to supplement the summary judgment record with this new evidence. A memorandum in support accompanies this motion with the evidence Hayward seeks to admit attached as Exhibits A and B.

WHEREFORE, Hayward respectfully requests that this Court grant its motion for leave to file supplemental evidence in support of its motion for summary judgment, (Doc. No. 119), and in opposition, (Doc. No. 200), to Defendants' motion for summary judgment regarding false advertising (Doc. No. 180).

In accordance with LCvR7.1(b), counsel for Hayward has conferred with counsel for Defendants and Defendants do not consent to this Motion.

Respectfully submitted this the 16th day of January, 2024,

Hayward Industries, Inc.

s/Russ Ferguson

Russ Ferguson (N.C. Bar No. 39671)
Womble Bond Dickinson (US) LLP
One Wells Fargo Center
301 South College Street
Charlotte, NC 28202
Russ.Ferguson@wbd-us.com

Erik Paul Belt (*admitted pro hac vice*)
ebelt@mccarter.com
James Donoian (*admitted pro hac vice*)
jdonoian@mccarter.com
Anne E. Shannon (*admitted pro hac vice*)
ashannon@mccarter.com
Alexander L. Ried (*admitted pro hac vice*)
aried@mccarter.com
McCarter & English, LLP
265 Franklin Street
Boston, MA 02110
T: (617) 449-6500

Counsel for Hayward Industries, Inc.